IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

LA.App..No. 1189 of 2000(B)

LAR.1/1995 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT

STATE OF KERALA

BY SRI.RAJAN JOSEPH, ADDL.A.G.
GOVERNMENT PLEADER SMT. K.R.DEEPA

RESPONDENTS: CLAIMANTS
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1. BADERI NAFEESA, PATTAMCHERY HOUSE,
NALLUR P.O., FEROKE, KOZHIKODE TALUK.

2. DO. BEERAN KOYA, DO. DO.

3. DO. MUHAMMED ASHARAF, DO.

4. DO. HAMSAKOYA, DO.

5. DO. MOHAMMED BASHEER, DO.

6. DO. NAZER, DO.

7. DO. ABBAS, DO.

8. DO. FAISAL, DO.

9. DO. MEHARBANU, DO.

10. DO. SHAMSUL, DO. (MINOR)

11. DO. JALEESH, DO. DO.
(REPRESENTED BY MOTHER NAFEESA)

12. DO. SHEREEFA, DO.

13. DO. NOUSHAD, DO. DO.

14. DO. NOUFAL, DO. DO.

(R13 AND 14 REPRESENTED BY GUARDIAN SHAREEFA).

BY ADV. SRI.THOMAS ANTONY
ADV. SRI K.M.JAMALUDDEEN.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.M.P. 5417/2000
IN
LAA 1189 OF 2000

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DISMISSED.

1.10.2007

ID/- KURIAN JOSEPH, JUDE.

ID/- HARUN-UL-RASHID, JUDGE.

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A.No.1189 of 2000 & Cross-appeal

Dated: October 1, 2007

JUDGMENT

Kurian Joseph, J.

This is an appeal filed by the State against the judgment and decree in LAR. No.1/1995 on the file of the Sub Court, Kozhikode. The acquisition is for the purpose of improvements to Feroke-Mannur-Kadalundy road. S.4(1) notification is dated 6.6.1991 and the award was passed on 1.8.1994. According to the claimant, the notification was published on 22.11.1991 in the local dailies. Be that as it may, it is seen that the Reference Court has granted land value only at the rate of Rs.15000/- per cent.

2. According to the learned Government Pleader, the land value should be fixed with reference to the date of commencement of widening the road whereas according to the claimants, they are entitled to have the progressive escalation in view of the implementation of the project since the present acquisition is by way of a subsequent notification. It is submitted that an item of property has been left out by the Reference Court while granting the relief and in that regard the cross-appellant has claimed Rs.13000/-. The enhancement claimed is Rs.5000/- per cent for the garden land.

3. Having gone through the judgment under appeal and after having heard the learned counsel on both sides, we are of the view that

the Reference Court has to take into consideration all the relevant aspects while fixing the land value, some of which are referred to above. Therefore, it is only in the interest of justice and in the interest of the parties that the matter is remitted to the court below for fresh consideration.

4. Accordingly, we set aside the judgment and decree in LAR No.1/1995 and remit the matter to the Sub Court, Kozhikode with a direction to specifically consider the contentions (1) regarding the area left out, (2) the impact of the progressive escalation and all other relevant matters. The parties are at liberty to adduce fresh evidence. The parties will appear before the Reference Court on 5.11.2007 and thereafter the Reference Court will dispose of the matter in another two months. There will be no order as to costs.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE.

mt/-

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. No.1189/2000

JUDGMENT

1.10.2007